THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14259 OF 2000

Dated: 14th March, 2006.

Between :

M/s. Mysore Polymers & Rubber Products Limited, Mysore. … Petitioner

And

The Controller, Legal Metrology, Hyderabad, and 3 others. .. Respondents

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ORDER :

The Petitioner claims to be a manufacturing company of Butyle inner tubes for automobile tyres. It is stated that the products of the petitioner company would be sold in sealed polythene packages by printing the requisite information thereon strictly adhering to the provisions of the Standards of Weights & Measures Act, 1976 (for short, 'the Act') and the Rules made thereunder. The petitioner also manufactures the inner tubes for certain other companies like CEAT, GOODYEAR and etc., in which case the products would be sent to their depots as per the directions of the respective companies. While so, on 17-2-2000 the 4th respondent inspected the trading premises of M/s. Sainath Auto Garage, Venkatagiri and seized the packages containing the tubes manufactured by the petitioner company which were displayed for sale alleging that the said packages did not bear the declaration regarding sale price and etc., as required under Rule 6 (1) (f) of the Standards of Weights & Measures (Packaged Commodities) Rules, 1977 read with Section 30 of the Act. Subsequently, the petitioner was issued a notice dated 11-5-2000 stating that on the basis of the said seizure, a case was registered against the petitioner company for the offence punishable under Section 67 of the Act read with Rule 39 of the Rules. The petitioner was also informed that the said offence was compoundable under Section 73 of the Act and if they so wish they may get the offence compounded by paying the compounding fee of Rs.5,000/- within 10

days.

The petitioner states that some local dealers in various parts of Andhra Pradesh are indulging in manufacture and sale of tubes in packed material in the name of the petitioner company without furnishing the information as required under the statutory rules and whenever such sales were detected the authorities have been seizing the products and initiating proceedings against the petitioner company without issuing any notice and without conducting any enquiry. Aggrieved by the same, the petitioner made representations dated 11-5-1999 and 21-6-1999 requesting to investigate into the matter and not to penalize the petitioner company. While the said representations were still pending, the fourth respondent issued the impugned proceedings dated 11-5-2000, on the basis of the seizure affected in the trading premises of M/s. Sainath Auto Garage, Venkatagiri. Having received the impugned proceedings, the petitioner addressed a representation dated 17-5-2000 to permit the representative of the petitioner company to make an inspection to see the tubes which were inside the sealed packages seized by the 4th respondent. However, the said request was not considered and no further enquiry was conducted, but the respondents were proceeding to take coercive steps against the petitioner. Hence, this writ petition to set aside the proceedings dated 11-5-2000 after declaring the same as arbitrary and illegal.

Though a counter-affidavit is filed on behalf of the respondents, the fact that the petitioner made representations dated 11-5-1999 and 21-6-1999 has not been denied.

Having heard both the parties and having regard to the specific plea of the petitioner company that it cannot be held liable for the spurious material allegedly seized in the market, which fact was admittedly brought to the notice of the respondents long back, I am of the opinion that the respondents ought to have considered the representations of the petitioner before initiating coercive steps against

the petitioner company for the alleged offence under the Act.

It is to be noted that this Court while directing Rule Nisi on 4-8-2000 in W.P.M.P.No.18122 of 2000 granted interim stay of all further proceedings in pursuance of the impugned proceedings dated 11-5-2000 and the same was made absolute in W.V.M.P.No.2631 of 2000 by order dated 12-7-2002. Thus, till date no further steps have been taken in pursuance of the impugned proceedings dated 11-5-2000.

In the circumstances, I deem it appropriate to dispose of the writ petition with a direction to the respondents to consider the objections raised by the petitioner in the representation dated 11-5-2000 and to pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of six weeks from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken based on the impugned proceedings dated 11-5-2000.

The writ petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 14-3-2006

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